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U.S. COURTS

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

In Re:

SAWTOOTH ENTERPRISES, INC. dba
DBA BUCKIN' BAGEL, THE

Debtors.

Case No. 96-03050

TRUSTEE'S OBJECTION TO
MOTION FOR RELIEF FROM
AUTOMATIC STAY

The Trustee, Bernie R. Rakozy, objects to the Motion for Relief From Automatic Stay filed July 24, 1997, by Bank of America National Trust and Savings Association ("Bank of America"). The Bank of America alleges that it must have a lift of stay from this Court so that it can pursue guarantors of debts in state court. The Bank of America's motion is without foundation and does not satisfy "cause" as required by 11 U.S.C. § 362(d)(1). The Trustee requests that the motion be set for final hearing. In support of this objection, the Trustee alleges as follows:

1. The debtor is not a necessary party to any state court action when the creditor is pursuing guarantors of a debt. The Bank of America can pursue individual non-debtors, and prove the amount due and owing, without the debtor being a participating party.

2. Lifting the stay against the debtor will cause additional expense, legal fees and time demands upon the Trustee and his counsel in order to defend the action in state court.

3. If the Bank of America merely requires a liquidation of its debt against the debtor, it may do so by submitting a stipulation to the Trustee or by pursuing claims litigation in bankruptcy court pursuant to 11 U.S.C. § 502.

4. The Bank of America purports to need "discovery" against the debtor. However, this is simply an unnecessary expense in that the debtor's books and records, in the possession of the Trustee, are open and available for review by the Bank of America. Discovery can be obtained in the bankruptcy case, if required. The same has been communicated to the bank's counsel.

5. The lifting of the stay against the debtor, thereby drawing the Trustee and counsel into state court litigation, will cause unnecessary time and expense to the estate to the detriment of the creditors. It is simply not necessary. The bank can prove its case in state court against the individual guarantors without involvement from the debtor.

Dated this 5th day of August, 1997.

EVANS, KEANE LLP

By Jed W. Manwaring
Jed W. Manwaring, Of the Firm
Attorneys for Trustee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of August, 1997, a true and correct copy of the foregoing document was served by first-class mail, postage prepaid, and addressed to; by fax transmission to; by overnight delivery to; or by personally delivering to or leaving with a person in charge of the office as indicated below:

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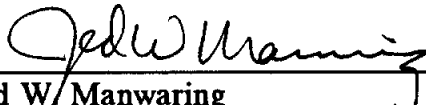
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